



COMPTROLLER GENERAL OF THE UNITED STATES  
WASHINGTON

A-91697

MAR - 3 1938

The Honorable,

The Secretary of State.

Sir:

There has been considered your letter of December 21, 1937, FA 125.9541/36, replying to office letter of December 10, 1937, relative to the tenure under lease S-356-fa-2, entered into on February 12, 1932, for the Secretary of State by the American Consul at Tunis, Tunisia, and Mrs. J. Lackaume as agent for Mrs. Henry-Raymond Malinet for the quarters occupied by the American Consulate at Tunis.

With respect to the tenure the lease provides as follows:

"The present lease is based on the Gregorian year. The lease is made for one year to begin January 1, 1932, and to end December 31, 1932. If, however the notice of leaving is not given by letter or other method, by one or other of the two contracting parties at least three months previous to the expiration of the lease, the lease will be valid under the same conditions and clauses for another year or until notice of leaving has been definitely given. This notice can be given by a simple registered letter."

It has long been held by the accounting officers and the courts, that a lease to the United States for a term of years is binding upon the Government only to the end of the fiscal year then current, with an option in the Government to renew from year to year until the end of the term, subject to appropriations being made available therefor. See sections 3679 and 3732, Revised Statutes, as amended;

act of April 24, 1920, 41 Stat. 578; Bradley v. United States, 98 U.S. 104; Chase v. United States, 155 U.S. 489; Loiter v. United States, 271 U.S. 204; Goodyear v. United States, 276 U.S. 287; 1 Comp. Gen. 10; 5 id. 355, 522. However, as pointed out in your letter, in the case of the Department of State there is specific authority of law in the annual appropriation acts beginning with the act of July 1, 1932, 47 Stat. 479, covering the fiscal year 1933, and continuing down to the present time.

Accordingly, while the subject lease was executed on February 12, 1932, prior to the statutory authority contained in the act of July 1, 1932, supra, and subsequent acts, in view of all the circumstances this office is not required to question the continuation of the lease in effect until December 31, 1941, the date suggested in your letter, unless terminated prior to that date.

Respectfully,

(Signed) R. N. Egan  
Acting Comptroller General  
of the United States.